

November 7, 1985

CONGRESSIONAL RECORD — SENATE

S 15043

ma, Mr. Jenkins, Mr. Gephhardt, Mr. Russo, Mr. Duncan, Mr. Archer, Mr. Vander Jagt, Mr. Crane, and Mr. Frenzel.

From the Committee on Appropriations: Mr. Whitten, Mr. Boland, Mr. Natcher, Mr. Smith of Iowa, Mr. Pursell, and Mr. Loefler:

From the Committee on Rules: Mr. Pepper, Mr. Moakley, Mr. Derrick, Mr. Bellenson, Mr. Frost, Mr. Latta, and Mr. Lott.

From the Committee on Government Operations: Mr. Brooks, Mr. Fuqua, Mr. Waxman, Mr. Synar, Mr. Horton, and Mr. Kindness.

From the Committee on the Budget: Mr. Gray of Pennsylvania, Mr. Downey of New York, Mr. Miller of California, Mr. Leath of Texas, Mr. Kemp, and Mr. Gradison.

Appointed as additional conferees: Mr. Foley, Mr. Ford of Michigan, Mr. Obey, Mr. Aspin, Mr. Mineta, Ms. Oakar, Mr. Panetta, Mr. Fazio, Mr. Michel, Mr. Dickinson, Mr. Cheney, Mr. Lewis of California, Mrs. Martin of Illinois, and Mr. Mack.

Mr. STEVENS. Mr. President, this has been cleared with the distinguished leader on the Democratic side of the aisle. I move that the Senate insist on its amendments and agree to the conference requested by the House and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer [Mr. WALLOP] appointed Mr. PACKWOOD, Mr. DOMENICI, Mr. ROTH, Mr. DANFORTH, Mr. ARMSTRONG, Mr. GRAMM, Mr. RUDMAN, Mr. LONG, Mr. BENTSEN, Mr. CHILES, Mr. LEVIN, Mr. BOREN, and Mr. HOLLINGS conferees on the part of the Senate.

FEDERAL RETIREMENT REFORM ACT

AMENDMENT NO. 978

Purpose: To amend the Central Intelligence Agency Retirement Act of 1964 for Certain Employees to establish a new retirement and disability plan for certain employees of the Central Intelligence Agency.

Mr. EAGLETON. Mr. President, I have an amendment I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. EAGLETON], for himself and Mr. STEVENS, proposes an amendment numbered 978.

Immediately following title III, insert the following:

TITLE IV—CENTRAL INTELLIGENCE AGENCY RETIREMENT REFERENCES

Sec. 401. The Central Intelligence Agency Retirement Act of 1964 for Certain Employees (78 Stat. 1043; 50 U.S.C. 403 note) is amended—

(1) in section 111, by striking out "When" and inserting in lieu thereof "Except as otherwise provided in section 302 of this Act, when";

(2) by striking out "this Act" each place it appears in title II except in sections 201 and 264, and inserting in lieu thereof "this title"; and

(3) by inserting "under this title" after "payable from the Fund" each place it appears in title II.

CONTRIBUTIONS TO THE CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Sec. 402. Section 211 of the Central Intelligence Agency Retirement Act of 1964 for

Certain Employees (78 Stat. 1045; 50 U.S.C. 403 note) is amended—

(1) by inserting "Except as provided in subsection (d)," before "7 percent" in the first sentence of subsection (a); and

(2) by adding at the end thereof the following new subsection (d):

"(d)(1) In the case of a participant who was a participant subject to this Act before January 1, 1984, and whose service—

"(A) is employment for the purposes of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954, and

"(B) is not creditable service for any purpose under title III of this Act or chapter 84 of title 5, United States Code, there shall be deducted and withheld from the basic pay of the participant under this subsection during any pay period only the amount computed pursuant to paragraph (2).

"(2) The amount deducted and withheld from the basic pay of a participant during any pay period pursuant to paragraph (1) shall be the excess of—

"(A) the amount determined by multiplying the percent applicable to the participant under subsection (a) by the basic pay payable to the participant for such pay period, over

"(B) the amount of the taxes deducted and withheld from such basic pay under section 3101(a) of the Internal Revenue Code of 1954 for such pay period."

OFFSET OF ANNUITY BY THE AMOUNT OF SOCIAL SECURITY BENEFITS

Sec. 403. Section 221 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (78 Stat. 1045; 50 U.S.C. 403 note) is amended by adding at the end thereof the following new subsection:

"(p)(1) Effective on the first day of the month in which an annuitant, including a survivor, becomes 62 years of age, the annuity computed under the other subsections of this section and payable to the annuitant shall be reduced (but not below zero) by the amount determined by multiplying the amount of the old-age and survivors insurance benefits which the annuitant is entitled to receive under section 202 of the Social Security Act for the such month, if any, by a fraction—

"(A) the numerator of which is the total of the wages (within the meaning of section 209 of the Social Security Act) for service which is referred to in paragraph (2) of this subsection for years before the calendar year in which such month occurs, and

"(B) the denominator of which is the total of all wages (within the meaning of section 209 of the Social Security Act) and all self-employment income (within the meaning of section 211(b) of the Social Security Act)—

"(i) of such annuitant, or

"(ii) in the case of a survivor, of the participant on whose service the annuity is based,

credited for years after 1936 and before the calendar year in which such month occurs.

"(2) The service referred to in paragraph (1)(A) of this subsection is service which is covered by amounts deducted and withheld as provided in section 211(d), is service described in subparagraphs (C) through (G) of section 210(a)(5) of the Social Security Act, and is taken into account for the purpose of computing the annuity to which paragraph (1) of this subsection applies.".

TREATMENT OF CERTAIN RECALL SERVICE

Sec. 404. Section 271 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (78 Stat. 1052; 50 U.S.C. 403 note) is amended by adding at the end thereof the following new subsection:

"(c) Subsection (b) shall not apply to an annuitant who becomes subject to title III of this Act by reason of recall service."

CONFORMITY BETWEEN THE FEDERAL RETIREMENT SYSTEM AND THE CENTRAL INTELLIGENCE AGENCY PENSION SYSTEM

Sec. 405. Section 292 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by adding at the end thereof the following new subsection:

"(c) The President shall maintain, under the same conditions and in the same manner as provided in subsections (a) and (b), existing conformity between the Federal Retirement System provided in chapter 84 of title 5, United States Code, and the Central Intelligence Agency Pension System provided in title III of this Act."

CENTRAL INTELLIGENCE AGENCY PENSION SYSTEM

Sec. 406. The Central Intelligence Agency Retirement Act of 1964 for Certain Employees (78 Stat. 1043; 50 U.S.C. 403 note) is amended by adding at the end thereof the following:

"TITLE III—CENTRAL INTELLIGENCE AGENCY PENSION SYSTEM
ESTABLISHMENT

Sec. 301. (a) There is hereby established a Central Intelligence Agency Pension System.

"(b)(1) Except as otherwise specifically provided in this title or any other provision of law, all participants in the Central Intelligence Agency Pension System shall be subject to the provisions of chapter 84 of title 5, United States Code, and shall be treated in all respects as persons whose participation in the Federal Retirement System provided in that chapter is required by section 8402 of such title.

"(2) Participants in the Central Intelligence Agency Pension System may not make an election authorized by section 8418(c) of title 5, United States Code, and shall not be entitled to any benefits under chapter 84 of such title which result from such an election.

"DEFINITIONS

"Sec. 302. As used in this title, unless otherwise specified—

"(1) the term 'annuity' means the annuity which is described in subchapter II of chapter 84 of title 5, United States Code, and is payable to a Pension System participant;

"(2) the term 'dynamic assumptions' has the same meaning as provided in section 8401(9) of title 5, United States Code;

"(3) the term 'Fund' means the Central Intelligence Agency Retirement and Disability Fund maintained by the Director pursuant to section 202;

"(4) the term 'normal cost' means the entry-age normal cost of the provisions of the System which relate to the Fund, computed by the Director in accordance with generally accepted actuarial practice and standards (using dynamic assumptions) and expressed as a level percentage of aggregate basic pay, and shall be used to value the cost of the System for all purposes for which the cost of the System is required to be determined;

"(5) the term 'Pension System participant' means a person who participates in the Central Intelligence Agency Pension System;

"(6) the term 'supplemental liability' means the estimated excess of—

"(A) the actuarial present value of all future benefits payable from the Fund under this title, over

"(B) the sum of—

"(i) the actuarial present value of the future contributions to be made on behalf

November 7, 1985

CONGRESSIONAL RECORD — SENATE

S 15045

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. DURENBERGER] (for himself and Mr. HOLLINGS) proposes an amendment numbered 999 to amendment No. 978.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 14, immediately following line 1, insert the following:

ADMINISTRATION OF THE CIVIL SERVICE RETIREMENT AND DISABILITY SYSTEM FOR EMPLOYEES OF THE CENTRAL INTELLIGENCE AGENCY

SEC. 407. Section 8347 of title 5, United States Code, is amended by adding at the end thereof the following new subsection (n):

"(n)(1) Notwithstanding any other provision of this subchapter, the Director of Central Intelligence shall—

"(A) administer the provisions of this subchapter with respect to officers and employees of the Central Intelligence Agency; and

"(B) perform the functions and duties which would otherwise be performed with respect to such officers and employees by the Office of Personnel Management or the Director of such Office under this subchapter.

"(2) The Director of the Office of Personnel Management shall furnish such information and services to the Director of Central Intelligence as the Director of Central Intelligence determines necessary to carry out paragraph (1) of this subsection."

REPORT ON EXPANSION OF COVERAGE OF THE CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 408. (a) The Director of Central Intelligence shall determine whether it would be appropriate to expand the coverage of the Central Intelligence Agency Retirement and Disability System to include any officers and employees of the Central Intelligence Agency who are subject to the Civil Service Retirement and Disability System under subchapter III of chapter 83 of title 5, United States Code.

(b) Not later than 1 year after the date of the enactment of this Act, the Director of Central Intelligence shall transmit to the Congress the Director's determinations under subsection (a) and any recommendations for legislation which the Director considers appropriate and relate to such determinations.

Mr. DURENBERGER. Mr. President, I rise on behalf of myself and my colleague, Senator HOLLINGS, to amend the amendment of the Senator from Missouri.

Let me say first that I do this in a spirit of improving an already excellent amendment. I do it also with a great deal of admiration and respect for anyone who has to occupy the position of chairing the Subcommittee on Civil Service, Post Office, and General Services. It is a subcommittee that handles issues that only a few people care about and that nobody ever sends thank-you notes about.

So on behalf of those of us who are on their subcommittee, I publicly compliment the Senator from Alaska and the Senator from Missouri for taking on a series of headaches that nobody

else would ever want to take on and for producing in the underlying bill here, today an incredible piece of legislation. It may end up pleasing no one but it will be a testimonial, by that very fact, to their skill as legislators in this very difficult area.

Senator EAGLETON's amendment is important and must be passed. It covers two areas not included in the pending legislation—coverage of Central Intelligence Agency personnel under the new Civil Service Retirement System and inclusion of overseas agency personnel under the so-called special early retirement provisions for high risk occupations. But, unfortunately, the amendment does not go quite far enough to cover the unusual circumstances affecting CIA personnel.

As you are aware, the CIA has come under a great deal of public and congressional scrutiny in the past decade and certainly in the past week. Unfortunately, what you are not seeing or hearing are the thousands of actions they are doing right on a daily basis. In particular, we are consistently demanding that our intelligence officers abroad provide more and more information on hostile intentions, especially those of terrorists.

This involves risk. More and more of our CIA field personnel are being subjected to threats and abuse. Two years ago we witnessed an example of this when a number of them were killed by a terrorist bombing of the U.S. Embassy in Beirut. And as their assignment become more hazardous and demanding, the special mental and physical requirements necessary of the intelligence officer increase dramatically.

To meet this standard the CIA must continually replace its officers overseas with younger personnel whose identities are not known and who can stand up to the stresses of their environment. To do this the CIA currently allows these officers to retire at age 50. The Director of Central Intelligence can demand that they retire at age 55.

Yet making these demands on our CIA personnel forces them out at an age where job opportunities are limited. In addition, their skills are unique and we vigorously discourage them from revealing or marketing their expertise in new careers. That is why we must be careful not to send a false message—that their Government demands the risk, but is unwilling to pay the price. If we are not going to pay these people what they deserve up front, then we must provide for them at the end.

I am pleased to say, Mr. President, that there is nearly unanimous agreement on this point and that the pending amendment will continue the early retirement program for our overseas intelligence officers. But there are two modifications necessary if we are to truly insure the security, integrity, and effectiveness of the Central Intelligence Agency's retirement system.

First, this amendment provides for full self administration by the CIA of its retirement and disability programs. This is critical if the Agency is to maintain confidentiality for its employees who are serving or will serve—literally a life and death need in this time of international terrorism. Under current law, only overseas personnel records are strictly maintained in-house by the Agency. In the Eagleton amendment, this is expanded to cover future nonoverseas employees. But a critical gap continues for the thousands of current nonoverseas personnel whose records are maintained by OPM and other nonsecure agencies around Washington.

Second, the amendment requires the Director of Central Intelligence to study the current CIA Retirement Program and determine what changes and expansions are appropriate. It has been 20 years since such a major review has been done and it is clear to this Senator that modifications are necessary.

In our discussions with the Government Affairs Committee and the CIA, we have concluded that it may be necessary to expand the current CIA Retirement and Disability Program to meet special needs. Is this also the understanding of the Senator from Missouri?

Mr. EAGLETON. Yes, it is.

Mr. DURENBERGER. We also believe that it is important that we conduct such a review of the CIA Retirement and Disability System and make appropriate changes within the next year. Does the Senator also believe this is correct?

Mr. EAGLETON. Yes, I do.

Mr. DURENBERGER. I thank the Senator.

Mr. President, I had also intended to propose that we prevent the deterioration of pension benefits for future overseas and cover personnel. Currently, the average CIA officer will retire with a pension that will replace 47 percent of this preretirement salary.

Under the pending legislation, this same employee will retire with only a 41-percent-replacement rate. But by slightly adjusting the pension accrual rate from 1 percent to 1.8 percent, this slip in benefits could be avoided. That is what I think should be done but in the interest of seeing this legislation enacted quickly, I will not make that proposal today. But I do expect the DCI to review this in the context of his study.

Our intelligence officers face hazards unknown to other overseas or law enforcement personnel. They and their families must lead their lives undercover, never telling friends and acquaintances of their true mission and responsibilities. In a world filled with terrorism, their very safety and lives are at stake if their cover is revealed. Most of these officers also work two jobs—their cover employment and their agency duties. And, finally, the

S 15046

CONGRESSIONAL RECORD — SENATE

November 7, 1985

nature of this work is very exacting, dangerous, and difficult. In short, it is unlike any other work in government.

Mr. President, there is a great need for a strong and effective human intelligence service in today's international environment. My service on the Select Committee on Intelligence has made me well aware of how much we depend on the fine men and women of our intelligence community. Their responsibilities are unique and their contribution is unparalleled. It is my determination that they, in turn, will be able to depend on us. I urge that the Senate support me in this effort and adopt this amendment.

Mr. HOLLINGS. Mr. President, I rise in support of the amendment of the chairman of the Intelligence Committee.

The men and women who serve in the Central Intelligence Agency are some of the finest we have in public service. They are first class in terms of experience, expertise, and special skills. Their responsibilities are difficult, unique, and often life-threatening. And, their successes are never publicly acknowledged. They are truly the front line of a "silent war" against terrorism, subversion, and attacks upon the United States and its allies.

The amendment before the Senate does two important things: it allows the CIA to administer its retirement system in order to provide adequate security of the names, addresses, and occupations of its employees; and it instructs the Director of Central Intelligence to review the existing CIA Retirement and Disability System and recommend any necessary expansions and modifications.

Mr. President, our overseas intelligence officers face hazards unknown to the Foreign Service or law enforcement personnel. They and their families must lead their lives undercover, never revealing their true mission to friends or acquaintances. If their cover is ever revealed their very safety and lives are at risk. At this moment there is a memorial at Langley for over 70 intelligence officers who have given their lives in service to this country. More names will be added as a result of the Embassy bombing in Beirut and other recent acts of terrorism. And, finally, most of these officers work two jobs—their cover employment and their agency duties.

In short, the work of an intelligence officer is very exacting, difficult, and dangerous. It is unlike any other work in government. Yet the Government cannot offer top salaries to this talented and highly skilled group of professionals. Instead, we have to largely rely on their sense of duty, loyalty, and idealism.

But we can do one thing—we can prevent their pension from deteriorating in the future, as the pending legislation allows. That is what Senator DURENBERGER and I intended to do today. But we see which way the current is running here and in the inter-

est of comity will revisit that issue in the future. But our message is clear—we intend to work on this issue next year. We intend to do our best to assure this cadre of professionals that we understand and appreciate their contribution.

Mr. President, this amendment rests on the merits and should be passed. It does not violate the spirit of this legislation and it does not violate the spirit of reform. I have been involved in civil service pension reform for years and will match my record against any in this Chamber. I led the fight to eliminate the "1 percent kicker" in 1976. I led the fight to end the "look back" provision in 1980. I led the fight to end the "dual COLA's" in 1981. I know what good reform is and I also know the political price we often have to pay back home to get it enacted.

But let me tell you that the bandwagon for reform in this legislation should not run over good solid public policy. Our intelligence officers deserve support now and in the future. I urge my colleagues to enact this amendment.

Mr. DURENBERGER. I believe that this amendment has been cleared with both the Senator from Missouri, the proponent of the amendment it seeks to amend, and our leader from Alaska.

The PRESIDING OFFICER. Do the Senators yield back their time.

Mr. STEVENS. Mr. President, I have no objection to the amendment to the amendment or to the basic amendment and urge their adoption. I yield back the remainder of our time.

The PRESIDING OFFICER. All time being yielded back, the question is on the amendment of the Senator from Minnesota.

The amendment (No. 979) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri, as amended.

The amendment (No. 978) was agreed to.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 980

(Purpose: To amend the Foreign Service Act of 1980 to reform the Foreign Service Retirement and Disability System)

Mr. STEVENS. Mr. President, I send to the desk an amendment on behalf of the distinguished Senator from Indiana [Mr. LUGAR] and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. LUGAR, proposes an amendment numbered 980.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Immediately following title III, insert the following:

TITLE IV—FOREIGN SERVICE RETIREMENT

REDESIGNATION OF CERTAIN PROVISIONS OF THE FOREIGN SERVICE ACT OF 1980

Sec. 401. (a) Chapter 8 of title I of the Foreign Service Act of 1980 (94 Stat. 2102; 22 U.S.C. 4041 et seq.) is amended—

(1) by striking out the caption of such chapter and inserting in lieu thereof the following:

“CHAPTER 8—FOREIGN SERVICE RETIREMENT AND DISABILITY

“SUBCHAPTER I—FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM”

(2) by striking out “this chapter” each place it appears and inserting in lieu thereof “this subchapter”; and

(3) by inserting “under this subchapter” after “payable from the Fund” each place it appears.

(b)(1) Section 808(d) of such Act (94 Stat. 2110; 22 U.S.C. 4048(d)) is amended—

(A) by striking out “such subchapter” each place it appears in the second and third sentences and inserting in lieu thereof “subchapter I of such chapter 81”; and

(B) by striking out “Act” each place it appears and inserting in lieu thereof “subchapter”.

(2) Section 808(e) of such Act (94 Stat. 2111; 22 U.S.C. 4048(e)) is amended by striking out “Act” each place it appears and inserting in lieu thereof “subchapter”.

(c) Section 809(a) (94 Stat. 2111; 22 U.S.C. 4049(a)) is amended by striking out “Act” and inserting in lieu thereof “subchapter”.

CONTRIBUTIONS TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM

Sec. 402. Section 805 of the Foreign Service Act of 1980 (94 Stat. 2104; 22 U.S.C. 4045) is amended—

(1) by inserting “Except as provided in subsection (g), before “7 percent” in the first sentence of subsection (a); and

(2) by adding at the end thereof the following new subsection (g):

“(g)(1) In the case of an employee or member of the Service who was a participant subject to this subchapter before January 1, 1984, and whose service—

“(A) is employment for the purposes of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954, and

“(B) is not creditable service for any purpose under subchapter II of this chapter or chapter 84 of title 5, United States Code, there shall be deducted and withheld from the basic pay of the employee or member of the Service under this subsection during any pay period only the amount computed pursuant to paragraph (2).

“(2) The amount deducted and withheld from the basic pay of an employee or member of the Service during any pay period pursuant to paragraph (1) shall be the excess of—

“(A) the amount determined by multiplying the percent applicable to the employee or member of the Service under subsection (a) by the basic pay payable to the employee or member of the Service for such pay period, over